UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

EDWARD MONROE, FABIAN MOORE,:

CIVIL ACTION

and TIMOTHY WILLIAMS, on behalf of themselves and all other similarly

situated employees,

Plaintiffs,

No. 2:08-cy-2100-BBD-dky

FTS USA, LLC, and

v.

UNITEK USA, LLC,

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO COMPEL DISCOVERY

Plaintiffs have filed this action claiming they have failed to receive overtime payments from Defendants, in violation of the Fair Labor Standards Act, notwithstanding that all of the named Plaintiffs have received, and cashed, paychecks from Defendant FTS USA, LLC ("FTS") that included payment for overtime hours worked. Defendants respectfully request this Court dismiss Plaintiffs' baseless Motion, as Defendants have provided the documents requested by Plaintiffs.

On October 10, 2008, Plaintiffs filed the instant Motion to Compel Discovery, notwithstanding counsel for Plaintiffs' failure to comply with Local Rule 7.2(a)(1)(B). Local Rule 7.2(a)(1)(B) reads, in relevant part:

Consultation by Counsel. All motions, including discovery motions ... shall be accompanied by a certificate of counsel affirming that, after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion. Failure to attach an accompanying certificate of consultation may be deemed good grounds for denying the

motion.

The certificate must contain the names of participating counsel and the date and manner of consultation. The burden will be on moving counsel filing the motion to initiate the conference upon giving reasonable notice of time, place and specific nature of the conference. ...

Plaintiffs have attached a Certificate of Consultation to their Motion, but said Certificate does, and cannot, comply with Local Rule 7.2(a)(1)(B). Counsel for Plaintiffs never proposed a conference to discuss the issues raised in her Motion with counsel for Defendants. Additionally, as described below, Defendants have complied with Plaintiffs' voluminous requests.

On July 11, 2008, Defendants served its initial answers to Plaintiffs' Requests for Production of Documents. Included with those answers, Defendants provided over 380 pages of documents, including employee files and compensation information.

On July 29, 2008, at the deposition of Elizabeth Downey, the Chief Executive Officer of Defendant, UniTek USA, LLC ("Unitek"), Defendants supplemented its response by hand-serving another set of documents on Plaintiffs. These documents included hundreds of time sheets for the named Plaintiffs.

On August 26, 2008, Defendants once again supplemented its response to Plaintiffs' Request for Production by serving Plaintiffs with of more documents, which included hundreds of the requested routing sheets. On October 20, 2008, Defendants again supplemented its production of documents by providing Plaintiffs hundreds of more routing sheets.

Counsel for Defendants has consistently represented that Defendants will continue to supplement its production in response to Plaintiffs' burdensome and voluminous requests.

As Plaintiffs are aware, since they continue to be employees of Defendant FTS, document

production can never be complete, given the ongoing nature of these claims. Nevertheless, without properly consulting with Defendants' counsel in violation of the Court's rules, Plaintiffs have burdened the Court with the instant, baseless Motion.

ELLIOTT GREENLEAF & SIEDZIKOWSKI, P.C.

Eric J. Bronstein Colin D. Dougherty

Union Meeting Corporate Center

925 Harvest Drive Blue Bell, PA 19422 (215) 977-1000

DATED: October 27, 2008

Counsel for Defendants

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

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EDWARD MONROE, FABIAN MOORE, and TIMOTHY WILLIAMS, on behalf of themselves and all other similarly situated employees,	: CIVIL ACTION : : :
Plaintiffs, v.	: No. 08-2100
FTS USA, LLC, and UNITEK USA, LLC, Defendants.	: : :
Defendants.	• :
AND NOW, this day of Nover Motion to Compel Discovery and Defendant ADJUDGED and DECREED that said Motion	mber, 2008, upon consideration of Plaintiffs' ts response thereto, it is hereby ORDERED,
	BY THE COURT:
	Bernice Bouie Donald, J.

CERTIFICATE OF SERVICE

I, Colin D. Dougherty, hereby certify that, on this date, I caused a true and correct copy of the foregoing to be served, by way of electronic mail upon the following:

Rachhana T. Srey, Esq. Nichols Kaster & Anderson, PLLP 4600 IDS Center 80 South 8th Street Minneapolis, MN 55402

Attorney for Plaintiffs

COLIN D. DOUGHERTY

DATED: October 27, 2008